

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

STEPHEN L. PAOLI,

Civil 09-3403 (DWF/JSM)

Plaintiff,

v.

REPORT AND RECOMMENDATION

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

Plaintiff commenced this action on November 30, 2009, by filing a civil complaint, and an application seeking leave to proceed in forma pauperis, (“IFP”). (Docket Nos. 1 and 2.) The Court found that Plaintiff’s IFP application was incomplete, and as a result, he had failed to show that he is financially eligible for IFP status. Plaintiff was given 20 days to file an amended IFP application, or else pay the full \$350 filing fee for this action. (Order dated December 3, 2009; [Docket No. 3].) Plaintiff was expressly advised that if he did not file an amended IFP application or pay the full \$350 filing fee within the prescribed time limit, the Court would recommend that this action be summarily dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). (Id.)

The deadline for complying with the Court’s prior order in this case has now expired, and Plaintiff still has not filed an amended IFP application or paid the \$350 filing fee. Indeed, Plaintiff has not communicated with the Court at all since he filed this action. Therefore, it is now recommended, in accordance with the Court’s prior order, that this action be summarily dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See Henderson v. Renaissance Grand Hotel, 267 Fed.Appx. 496, 497 (8th Cir. 2008)

(unpublished opinion) (“[a] district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order”); Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (federal court has inherent authority to “manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases”).

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: January 28, 2010

s/ Janie S. Mayeron

JANIE S. MAYERON

United States Magistrate Judge

Under D.Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **February 11, 2010**, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under this rule shall be limited to 3500 words. A judge shall make a de novo determination of those portions of the Report to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable directly to the Circuit Court of Appeals.